

CONSULTATION PAPER ON UNIVERSITY GOVERNANCE: COMMENTS

1. As a non-Regent member of the Senate I should like to comment on the proposal for the appointment of 'external' members of the Council. I should first like to express my regret that once again the University has failed to take the opportunity to involve its alumni more closely in the governance of the University. Revealingly paragraph 7.2 of the paper refers to the appointment of 'people external to the University', a category that from the context includes all alumni other than members of the University staff.
2. The failure to recognise that alumni are part of the University is entirely consistent with the content of *CAM* magazine, where there is never a hint that alumni have anything of value to offer the University except the free gift of their money. Needless to say there has been no direct communication of the current proposals to alumni, and most of them are left to make what they can from garbled messages and unintelligible coded debates in the *Guardian* and elsewhere. It is ironic that Oxford and Cambridge, where for centuries the alumni had the only voice in government, now offer alumni (except the few who read the *Reporter* and have the leisure to attend Discussions) less participation than almost any other university in the country.
3. However my main concern goes wider than the participation of alumni and is about the process by which the 'external' members will be nominated. When, a few years back, some alumni suggested that nominations for the Nomination Board, the one feeble way in which alumni are represented, should be publicly invited rather than emerging fully formed, the Council in effect told alumni that the appointment of their representatives was none of their business, and that they should trust to the, albeit secret, wisdom of the Council. I very much hope that whatever body is responsible for nominating 'external' members of the Council, which I assume will be made up partly though not wholly of existing members of the Council, will not take a similar view. Given that the 'external' members will represent nobody but themselves it would be disastrous to their legitimacy if the method of their appointment gave them the appearance of being cronies of the 'internal' membership of the Council.
4. I hesitate to suggest that nominations could be invited by a notice in *CAM*, given the University's evident contempt for its readership, but perhaps it is not too much to expect that there could be advertisements in the national educational media. I also very much hope that the nomination committee will take account of Nolan principles and best practice on equal opportunities before coming to a conclusion. A failure to do so could invite litigation of the sort that the University is all too familiar with.
5. The danger is that the appointment of 'external' members will turn out to be a mere fig-leaf to cover the indecent reality of a University still controlled, unlike virtually every other university, by its own staff. Until the University can really get to grips with the consequences of that its governance will be viewed as at best quaint and ineffectual and at worst verging on the corrupt.

Crispin Taylor (Christ's, 1973-76, MA 1980)

From Dr D. M. Thompson

University Governance

- 1 Although this is a Consultation Paper about University Governance, most of it is concerned with the composition of particular elements in the existing governance structure. There is relatively little consideration of function, which must surely determine composition. Furthermore the account given of 'the current structure' in §2 is inadequate, particularly in §2.3. It is not so much that what is said in §2.3 is untrue, as that it is back to front. The essential point in the current structure is that changes in Statutes and Ordinances require the approval of the Regent House; this is secured by the promotion of Graces; and the only body that can promote Graces (subject to the recently introduced and never exercised power for Regent House-initiated Graces) is the Council. Hence the 'inaction' of the Regent House in relation to Council proposals is the absence of a 'non placet'. But the rarity of this, and the even greater rarity of a successful 'non placet' since the introduction of postal ballots following the Wass Report, should not blind us to the fundamental principle of self-government which is involved here. In particular the statement that 'members of the Regent House have power to challenge decisions of the Council' misses the point that a decision of the Council is not a decision of the University until it has been approved by the Regent House, and thus sets up a rather artificial confrontation which obscures the point of a self-governing body, such as the University currently is.
- 2 The more serious point, which is not really alluded to in the Paper at all, is that (as with central government) many decisions which would formerly have been the subject of Reports and Graces are now no longer dealt with in that way at all. Thus we have a series of 'Guidelines' on various matters, some of which are published in *Statutes and Ordinances* while others are not, which carry only the authority of their issuing body, usually the General Board. Moreover many day to day matters which the Council and General Board are called upon to decide as a result of current governmental funding structures are never discussed in the wider University at all. So long as there is trust between the central bodies and the Regent House, this is not a matter of major concern. When, however, a particular project goes awry such as CAPSA, which affects a large number of members of the University in their day to day lives, there is a hue and cry to see what went wrong. Although the two external reports which were commissioned were very useful and contained several valuable insights, the fact remains that there is nothing in the proposals either in the separate Report on CAPSA or in this paper on Governance which would in itself prevent a repetition of the CAPSA affair. The idea, for example, that a lay chairman of the Audit Committee could have 'banged the table' in a way that secured action, is a rhetorical flourish which lacks substance; but that does not mean that it is not a good idea to have a lay chairman. The point is simply that the idea that effective governance is a matter of fine-tuning the structures is a chimera – but that again is not an argument for having less, rather than more, efficient structures.
- 3 Another key sentence in the Paper, which is only partially followed through, if at all, is that in §3.1: 'There is an apparent inability to adapt quickly to changing demands and circumstances, or to grapple with long-term problems of strategic importance'. There are two distinct issues here, which deserve separate treatment:

- a) The issue of speed of response is primarily affected by the level at which the decision has to be made. In so far as certain decisions require Graces, arguably the main reason for the slowing down of the University's decision-making procedure has been the reduction of the frequency of the Council's meetings from weekly, to fortnightly, to monthly. This is not referred to in the Paper. Nor is there any proposal for a change in the ten-day period which exists at present for notice of 'non placet' to be delivered (surely it could be reduced to seven days now) or for the frequency of Discussions and the report-back timetable, which currently determines these matters. However, speed of response in relation to 'non-Grace' matters is not subject to that specified timetable. Here the main constraint is what might be called the 'need to know' basis. The wider the group to be consulted on a particular decision, the longer it will take to make it. The only way to shorten the process is to change the composition of relevant groups, such as has been done with the recent introduction of the Planning and Resources Committee. But unless it is proposed to move power away from Faculty Boards towards the Councils of the Schools and thereby to give more responsibility to Chairs of Faculty Boards (or other representatives on the Councils of the Schools) there is an inherent limitation on speed of action, which just has to be lived with.
- b) The handling of long-term matters of strategic importance is quite different. Here time, rather than speed, is of the essence. One reason for the reduction of frequency of Council and General Board meetings was to allow better preparation of papers in the hope that this would produce better discussions. In my experience of the Council (which was for four out of six years skewed by particular circumstances), this did not happen. I do not think that this was primarily the fault of the members of Council. It is rather that the traditional way in which papers for the central bodies have been prepared has not, in fact, been geared towards a strategic discussion, in which various options are considered and evaluated, but rather towards securing the approval of a particular decision, which is argued for in the paper. There is nothing wrong with the latter method, but it needs to be recognised that such papers do not lead to strategic discussions. Thus the primary solution for the handling of matters of strategic importance lies in the preparation for such discussions, not in the composition of those involved in the discussion.
- 4 A final key sentence is the central one in §3.4 about the requirements of/for effective academic self-government. As drafted its main deficiency is that the subject is unclear: who must exercise academic self-discipline, be willing to take decisions etc? The final phrase suggests that it is not the University's administrative officers, since they are those with whom the unidentified subject(s) must work. But it makes a great deal of difference whether the intention is to make a point about total collective responsibility, which the reference to academic self-discipline might imply, or to identify decision-makers, whether individuals or groups. In this respect the CAPSA issue is strikingly exceptional, since the crucial problem there was ensuring that the contractor delivered to the required specification. Most ordinary University decision-making does not involve interfacing at crucial delivery points with outside contractors, but with other parts

of the University. At the risk of being repetitive I emphasise that what made the CAPSA debacle significant in a way in which, for example, the dramatic overspend on the Judge Institute and the Law Faculty building were not perceived to be, was the fact that its consequences affected every Faculty and Department in their day to day operations in relation to the central University administration – operations which could not be handled in alternative ways and which became inordinately frustrating and time-consuming. So I hesitate to use that as the basis for determining a review of governance issues. My specific comments on the substantive paragraphs of the Proposals follow.

- 5 §5.1 : in relation to the Vice-Chancellor and Pro-Vice-Chancellors the phrase about ‘explicit authority to act on behalf of the University’ will need to be very carefully thought through. It is one thing to say that something is not sufficiently explicit at present; it is quite another to arrive at a satisfactory explicit definition.
 §5.2: see previous comment when proposing a definition of the ‘authority to discharge these responsibilities directly or by delegation’.
 §5.3: having argued for this for several years on the Council, I warmly support this.
 §5.4: it needs to be recognised that authority by delegation from the V-C and that which flows from chairing key committees are two completely different things. What is meant by ‘internal University affairs’?
 §5.6: the changed method of appointment is welcome.
 §5.7: this is a sensible change.
- 6 I broadly support the continued separation of the Council from the General Board on the ground that they need to be differently composed; in particular the methods of representation of the Faculties on the General Board is crucial to its credibility within the University. Indeed I think that the fact that membership of the General Board is largely determined by consultation within Faculties whereas there is often a perception that the elected members of Council are people with bees in their bonnets or axes to grind explains something of the different reactions within the University to the two bodies. It is ironical that constitutionally the Council is more significant, because I don’t think it is necessarily perceived that way. The relationship between the Council and the General Board should be addressed more directly than it was under Wass. At present they are dealt with in separate statutes (A and C), and the General Board is not even mentioned in Statute A. In particular one consequence of the present dual system which is commended in §6.5 is that the relationship with the Colleges is only addressed (in so far as it is addressed at all) within the Council, which in my view significantly under-estimates the significance of the Colleges in the teaching undertaken in the University. In any case, the constitutional fact is that the Council does have the power to refer proposals from the General Board back to the Board for further consideration, and I see no reason why that should not be acknowledged. Hence I hope that the statutory redefinitions of boundaries mentioned in §6.7 might be wider than the Paper suggests.
- 7 §7.1 I agree that the size of the Council should not be significantly increased.
 §7.2 I agree that there is merit in having external members of the Council, but I think the argument implied in the first sentence is spurious. The value of external members is precisely that they are external – they offer a different view. Whether

they enhance the Council's executive and strategic capacity, or even its expertise, depends entirely on who they are.

§7.3 I have no problem with the detail in this paragraph, but I would hesitate before bringing in an external Chairman of the Council or the Audit Committee completely from cold. Obviously that may have to be done in the first instance, but I think that it could be a recipe for a disaster. So the sequencing of selection and nomination needs to be very carefully thought through.

§7.6 I agree with the principle, though I worry about the phrase 'those who have an interest in the University'. I hope that we are talking about members of the University, and if necessary alter the definition of that to be more inclusive.

§7.8 While I support in general terms the idea of assistant staff representation, I would like to see statistics on overall numbers and turnover rates before expressing a view on how 'eligible assistant staff' might be defined. I also suspect that the relevant Trade Unions may have views about this whole idea, and hope that there is very careful thought given both to possible conflict of interest and also to the issue of whether action through Council representatives and action through Trade Union representatives will both remain options.

§7.10 In the past one of the values of representation of Heads of Houses has been that this has often been the way in which Cambridge has in effect secured 'external' representatives on the Council, in that Heads of Houses have not always had academic careers or spent their academic careers largely in Cambridge. With the introduction of external members the argument for retaining Heads of Houses has been weakened. I think that if it is the representation of the Colleges that is at issue, then it would be more effective to have representatives of the Colleges Committee, Senior Tutors' Committee and Bursars' Committee.

§7.11 Although I see the reason for having the Chairs of the Councils of the Schools on the Council, on balance I am against it both because it increases the overall size, and also because it creates the risk that their presence on the Council could enable decisions to be made by Council that should properly be made by the General Board.

- 8 Although I see the force of the arguments advanced for an increase in the role of Chairs of Councils, I see some problems. In particular I think that the statutory definition of responsibilities proposed in §8.3 (i) needs to be very carefully thought through. I would welcome clarification of the words 'appropriate authority within their School' and 'appropriate accountability to the University Council'. Furthermore in any future version of this document the fixed term needs to be defined. I am sceptical about the wisdom of making this renewable. As one who formerly served in such a position I know how much experience one gains which seems irreplaceable; but it is only be relentlessly requiring others to gain that experience that people avoid being trapped into positions from which they escape with difficulty and then discover that they have been deskilled in relation to their primary academic responsibility.
- 9 I have already commented on the proposal to increase the size of the Regent House above. I do not see why the number of members required to call for a Discussion should be the same as that for a ballot or amendment. I see the force of the larger number for a ballot, though from a practical point of view I do not see that it causes any great harm at present. But in relation to the call for a Discussion on a matter of concern I think that the absolute number is the key, not the percentage, and hence I would argue for the retention of ten for that.

David M. Thompson

From Mr. G. Weldon

Dear Sir,

I am writing to you in response to "University Governance: A Consultation Paper", issued on 4 February by the Council. I would like to apologise for replying after the preferred submission date (if only marginally), but I note that section 11 of the paper makes clear that this is only a preferred deadline, not an absolute one.

It is, unfortunately, impossible to reasonably respond using the web-based questionnaire provided as so many of the questions are inadequate and, indeed, could be construed as loaded. Beyond its rather short and simplistic form (see, for example, question 5), it is unclear what interpretation might be given to answers given to some of the questions and hence I am unsure how to answer them. The worst question is undoubtedly 3a ("Should the Chairs' functions be defined and their roles enhanced and supported?"), which is really three questions in one: whilst few would disagree that their functions should be defined and their roles supported, many might question whether their roles need to be enhanced!

Indeed, the Council, most surprisingly, did not "see the questionnaire before its publication on the Web or have any input to its design," according to Council member James Matheson (4 March 2002, ucam.change.governance). This creates the impression (whether false or not) that the questions were deliberately ambiguous and misleading, and designed to provide whatever answers the originators of the consultation were looking for. It is the impression given, not the truth or falsehood of this impression that is important and potentially worrying.

I intend to comment on two sections of the proposals, namely those affecting the Regent House and the Council.

With respect to the Regent House, I support the expansion of it to include "all academic and academic-related staff who are employed on 'unestablished contracts'" (Annex 2 of the Consultation Paper), with the proviso (included in the Consultation Paper) that a reasonable length of service should be necessary before membership ensues, possibly indeed longer than the one or two years suggested.

However, I find the proposal to increase the number of members of the Regent House required to call a ballot on a Grace, to amend a Grace, or to request a Discussion to be illogical and unwise. The purpose of the minimum number of members seems to me not to be to provide a very high hurdle for such a proposal to surmount. Instead, it is surely to allow fairly small groups of members to raise their concerns with the rest of the Regent House, whilst preventing frivolous requests from succeeding even if only supported by one or two people.

It is unclear to me why there should be a significantly greater chance of ten people supporting such a frivolous request if the Regent House is expanded by a relatively small amount (of the order of 50%). In any case, it is certainly out of all proportion to have a 500% increase in the number of signatories needed given the increase in size

of the Regent House itself: such a high number would be nigh on impossible to collect in the short period of time available given other pressures on time.

Indeed, if an analysis is done of the occasions when requests for ballots on Graces have succeeded in the past few years, it can be seen that such an event occurs only a couple of times per year. This hardly seems excessive scrutiny from a body that “shall be the governing body of the University” (Statute A, III, 1). If subsequently it is found that excessive numbers of requests are made, it is surely not beyond the capacity of the Regent House to amend the Statutes again!

With regard to the Council, I believe that some of the changes proposed are deeply worrying. The Council derives its authority through the Regent House, and these proposals effectively emasculate the governing body. Currently twelve of the twenty Council members (excluding the Chancellor) are elected by the Regent House from its members (I have excluded the Heads of College, who are admittedly elected, as there can only be relatively few candidates for these positions). If these proposals were passed, only twelve of the twenty-six members, in addition to the three Heads of Colleges, would be chosen by the Regent House. I fail to see why it is necessary for all six Chairs of the Councils of the Schools to be on the Council when none are at present, nor for the Pro-Vice-Chancellor to be a member when the Vice-Chancellor already is.

The appointment of external members to the Council appears to be the subject of some confusion. Whilst section 7.2 of the consultation document refers to “people external to the University”, section 7.5 states that “the external members would not *necessarily* be members of the University on election” (my italics). Surely the version in 7.2 is the only sensible one: if these ‘external’ members are instead internal, the net effect is to create three positions on the Council filled by people nominated by a body in turn nominated by the Council that could instead be elected by the Regent House.

As a relatively insignificant, yet potentially constitutionally important, point, I would also like to point out that the Chancellor should have an automatic place on the Council as at present, even if, in practice, he or she rarely attends.

In summary therefore, my concerns are threefold. Firstly, the manner in which the consultation was carried out means that much of the collected feedback is rather meaningless; secondly, the proposal to require more signatories to be able to request ballots for Graces or to request Discussions is unnecessary and harmful to the proper scrutiny of the University; and thirdly the new structure of the Council is weighted too heavily in favour of appointed managers and administrators, and removes much of the Regent House’s representation.

Yours faithfully



Gerald Weldon

From Ms K. Whitaker

Dear Dr Mead,

Re: Governance Consultation

As comment has been invited on the above subject, I am writing as a member of the Senate to express my views on this matter.

I understand that there have been proposals to change the composition of the University's Council, increasing the membership and having an appointed chair-person. Whilst I welcome the attention being paid to the composition of the Council, I feel that greater evaluation of the Council's role should be made first.

At present there seems to me to be a confusion between the Council's role and that of the Vice-Chancellor. The Vice-Chancellor's role is not well-defined by Statutes and Ordinances; the office-holder is assumed by some to be the executor for a committee (the Council), but by others, a decision-taker in charge of the University.

These issues must be addressed before the composition of the Council can be determined. Should the Council continue to be the executive and policy-making body of the University with the Vice-Chancellor to carry out its instructions; or should the Council support a policy-making Vice-Chancellor, "rubber-stamping" this officer's decisions and spending?

Cont.

In my view

1. The Council should remain as the executive body of the University, determining policy for the University's development. The Vice-Chancellor should execute the Council's decisions as the University's chief administrative officer. This is loosely modelled on the system which governs English Heritage, which has a policy-making Commission and chief executive officer who manages day-to-day business.
2. The Vice-Chancellor should be accountable to the Council and not a Council member. The Vice-Chancellor's freedom of action and level of powers should be carefully defined by the Council, and the Vice-Chancellor's performance should be appraised by the Council.

This brings me to the composition of the Council.

The Council should remain an elected body, ultimately accountable to the Regent House through the system of Discussion and Grace. I would like to see the Council chaired by the Chancellor, composed principally of members of the Regent House elected by the Regent House and "lay" members who are alumni elected by the University's alumni; in addition, elected Assistant Staff and students.

My impression is that it has been difficult to recruit people with the necessary expertise and enthusiasm to serve on the Council. I feel that the Council will be much more attractive if it is chaired by an actively involved Chancellor and spends its time on policy and strategy rather than the business of administration.

Yours sincerely,



Katy Whitaker